

MINUTES
NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION
REVIEW COMMITTEE
ELEVENTH MEETING: JUNE 9 - 11, 1996
BILLINGS, MONTANA

The eleventh meeting of the Native American Graves Protection and Repatriation Review Committee was called to order by Mr. Martin Sullivan at 9:40 a.m., Sunday, June 9, 1996 at the Homesteader Room, Clarion Inn West, Billings, Montana. The following Review Committee members, National Park Service staff, and others were in attendance:

Members of the Review Committee:

Ms. Tessie Naranjo, Chair
Ms. Rachel Craig
Mr. Jonathan Haas
Mr. Dan Monroe
Mr. Martin E. Sullivan
Mr. Phillip L. Walker

National Park Service staff present:

Mr. Francis P. McManamon, Departmental Consulting Archaeologist, Washington, DC
Mr. C. Timothy McKeown, NAGPRA Program Leader, Washington, DC
Ms. Jean Kelley, NAGPRA Consultant, Washington, DC

The following were in attendance during some or all of the proceedings:

Ms. Nadema Agard, Repatriation Director, Standing Rock Sioux Tribe, Ft. Yates, North Dakota
Mr. Francis Aulde, Kootenai Cultural Committee, Confederated Salish and Kootenai Tribes, Elmo, Montana
Ms. Georgia Bad Bear, Crow Agency, Montana
Ms. Faith Bad Bear, Science Museum of Minnesota, St. Paul, Minnesota
Ms. Morgan Baillargeon, Canadian Museum of Civilization, Hull, Quebec
Ms. Nancy Curriden, Custer National Forest, Billings, Montana
Ms. Connie Estep, Museum of the Rockies, Bozeman, Montana
Ms. Gillian Flynn, Smithsonian, Washington DC
Ms. Donna Garnette, Oglala Sioux Tribe, Kyle, South Dakota
Ms. Myra Giesen, Bureau of Reclamation, Lawrence, Kansas
Ms. Martha Graham, American Museum of National History, New York, New York
Mr. Terry Gray, Assistant NAGPRA Coordinator, Rosebud Sioux Tribe, Rosebud, South Dakota
Ms. Emma Hansen, Plain's Indian Museum, Cody, Wyoming
Ms. Andrea Hunter, Native American Repatriation Review Committee, Flagstaff, Arizona

Ms. Beverly Ironshield, NAGPRA, Standing Rock Sioux Tribe, McLaughlin, South Dakota
Ms. Pamela Jardine, University of Pennsylvania Museum, Philadelphia, Pennsylvania
Ms. Ann Johnson, Yellowstone National Park, Mammoth, Wyoming
Ms. Laura Joss, Yellowstone National Park, Wyoming
Mr. Marvin Keller, Bureau of Indian Affairs, Billings, Montana
Mr. Thomas W. Killion, Smithsonian, Washington DC
Mr. Sebastian Bronco LeBeau, Cheyenne River Sioux Tribe, Eagle Butte, South Dakota
Ms. Naida Lefthand, Kootenai Cultural Committee, Confederated Salish and Kootenai Tribes,
Elmo, Montana
Mr. Dennis Limberhand, Billings, Montana
Ms. Zona Loans Arrow, Repatriation Committee, Standing Rock Sioux Tribe, Ft. Yates, North
Dakota
Mr. Edward Luhy, Phoebe Hearst Museum of Anthropology, Berkeley, California
Mr. Ruben McCloskey, United Sioux Tribes, Pierre, South Dakota
Mr. Ken Oransky, Montana Fish, Wildlife and Parks, Billings, Montana
Ms. Dorene Red Cloud, Buffalo Bill Historical Center, Cody, Wyoming
Mr. Alvin Slow Bear, Oglala Sioux Tribe Rural Water Supply System, Pine Ridge, South Dakota
Mr. Gary Smith, Bureau of Reclamation, Billings, Montana
Ms. Barbara Sutter, NPS, Lakewood, Colorado
Mr. Philip Under Baggage, Oglala Sioux Tribe, Kyle, South Dakota
Ms. Gabrielle Vail, University of Pennsylvania Museum, Philadelphia, Pennsylvania
Mr. Rick Weatherman, University of Wyoming, Laramie, Wyoming
Ms. Annabel Wolf, Blackfeet, Alberta
Mr. Terry Zontek, Bureau of Reclamation, Billings, Montana

Mr. Sullivan welcomed everyone to the meeting and asked that the Review Committee, National Park Service staff, and the audience introduce themselves. He then asked, on behalf of the Committee, to have a moment of silence in respect for the late Mr. William Tallbull. Ms. Rachel Craig gave the invocation.

Review of the Agenda

Mr. McManamon welcomed the members of the public to the meeting and explained the meetings are open to the public with scheduled public comment periods. He then thanked the Review Committee members for their time and efforts regarding the implementation of the Statute.

Implementation Update: Mr. McManamon reported that since the last meeting, the majority of the regulations have been published as final in the Federal Register and are fully in force as of January 1996. The National Park Service did address certain issues in the regulations, per request of the Senate Indian Affairs Committee, including a request that associated funerary items be placed under the purview of the Committee's recommendations regarding the culturally unidentifiable category.

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Civil Penalties: The National Park Service also suggested that wording be added to allow the Secretary of the Interior to determine disposition of civil penalties; such as, use for rewards, restitution and enforcement costs. The NPS had not received a response back on that particular request by meeting time. Mr. Haas requested a copy of the NPS response to the Senate Oversight Committee's requests for additional information, which Mr. McManamon said would be provided to the Committee.

Regulations: Mr. McManamon again emphasized that the final regulations were published and went into effect as stated above. He further explained that the civil penalties section, section 10.12, has been drafted and is now in process for approval to be published as an interim regulation; meaning, if approved for publication, it would be immediately enforceable and in effect.

Future Applicability: Mr. McManamon pointed out to the Committee that each had a copy of the draft of section 10.13 on future applicability, and that this is scheduled for discussion later in the meeting.

Summaries: Mr. McManamon reported that 870 summaries have been received by the NPS, and 32 notices of intent to repatriate have been published so far. The notices of intent to repatriate included the following objects: 31,669 unassociated funerary objects, 256 sacred objects, 20 objects of cultural patrimony, and 21 objects that are considered both sacred objects and objects of cultural patrimony.

Inventories: Mr. McManamon reported that the NPS has received inventories from approximately 600 museums and Federal agencies. He also stated that the NPS is working on compiling a list for the Committee of the sets of human remains and associated funerary objects that are culturally unidentifiable. To date, 76 notices of inventory completion have been published in the Federal Register, which include 2,978 sets of human remains and 131,113 associated funerary objects. Mr. Haas expressed a concern about the status of inventory extensions, and Mr. McManamon stated that 84 appeals for extensions were received from museums. Of these, 56 appeals were granted, 2 appeals were denied, 2 appeals are currently in process, and 24 museums provided the necessary information so an appeal was unnecessary. Mr. Haas expressed a concern as to why some Federal agencies were not on the list and wondered if they would be granted extensions. Mr. McManamon said Federal agencies do not have the option of an extension. After concern expressed by Mr. Monroe and Mr. Sullivan, Mr. McManamon suggested that maybe this was an issue that should be addressed in more detail later in the meeting. Mr. McManamon further suggested that perhaps after a more formal inventory review, a specific list could be created on agency compliance.

Grants Program: Mr. McManamon reported that for Fiscal 1996 grants, 2.2 million dollars will be available. A grant list is being prepared and will be submitted to the Director of the Park Service and the Assistant Secretary of Fish and Wildlife for approval. The NPS hopes to announce the awards in early July 1996.

Dispute Update: Mr. McManamon related that in the case regarding Satanta's shield involving the descendants of Satanta and the University of California at Berkeley, the Committee received a letter from

Mrs. Washburn indicating that she and the others have considered the Committee's questions about appropriateness of the claim and decided not to pursue this matter any further. Mr. Haas questioned if there was any response from the Hearst Museum, and Mr. McManamon replied that to date there was not.

Enforcement: Mr. McKeown reported that in the Mokapu dispute, the Marine Corps at Kaneohe Bay requested the Committee's recommendation regarding disposition in light of current litigation. A letter was sent recommending that the Marine Corps hold the remains until the disputants have settled their issues. Recently, the Marine Corps decided to formally make a decision, possibly as early as July, regarding who to repatriate the remains to. Mr. McKeown then updated the Committee on four recent trafficking convictions under NAGPRA, administered under the Department of Justice.

Discussion of Federal Agency Compliance

Mr. Haas expressed concern about the absence of inventories from certain Federal agencies: such as, Bureau of Land Management, Bureau of Reclamation, and U.S. Army Corps of Engineers. Mr. Haas questioned the reason for this absence and what action the Committee could take. Mr. McManamon cited a number of reasons for this absence including: incomplete NPS inventory; agencies and museums working in cooperation, with the museums reporting joint inventories; incomplete agency inventories; agencies with complete inventories which the NPS has not received. Mr. McKeown had an additional comment that some agencies have submitted one inventory encompassing numerous locations.

Mr. Haas again expressed concern about agencies such as the BLM with no listing; he pointed out that the Review Committee is charged with monitoring the inventory and stated that the Committee should take steps to address these Federal agencies to bring them into compliance. Mr. McKeown reiterated Mr. McManamon's suggestion that a more formal list be compiled in the near future, ensuring a complete inventory list. Mr. Monroe added that after the list is compiled, Federal agencies which have not filed an inventory should be notified that the Committee requests an explanation of the status, reasons for the delay, and expected completion date. Mr. McManamon suggested that the NPS try to answer some of these concerns by the next meeting including: how the NPS is doing, how the agencies are doing and what their processes are, and the what the status is of the large agencies that have not completed inventories. Mr. Monroe suggested just a simple request to non-compliant agencies asking them to inform the Committee as to their current filing status.

Mr. LeBeau expressed a concern that the Cheyenne River Sioux Tribe had not received an inventory from the North Dakota BLM. Mr. LeBeau further stated that the Wyoming BLM informed him that most of their collections were housed in various museums; therefore, he was concerned about who has legal "title" and which entity tribes should submit repatriation requests to. Mr. LeBeau asked if Mr. McKeown could supply specific information on which statutes, other than NAGPRA, could force Federal agencies to comply with NAGPRA. It was the Committee's opinion that in most instances the Federal agencies retain responsibility for these collections.

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Ms. Boen expressed a concern that the State Archaeological Research Center in Rapid City, South Dakota, has remains that came off tribal land, from a project that the Park Service funded, and wondered who has responsibility for that collection. Mr. McManamon replied that the tribe was responsible. Ms. Boen stated that in instances like this, where the tribe was not even aware of the collection and the Park Service had initially funded it, that the Park Service should be responsible. Mr. LeBeau further stated that if a collection had originated on tribal lands in South Dakota, the collections were tribal property and repatriation should not even be a requirement. Mr. McManamon further explained that in Ms. Boen's case, another agency would have been responsible for funding that particular project, and the collection was never considered a part of the National Park Service. Mr. McManamon also stated that collections from land that was and is tribal land would be considered existing collections, as opposed to new excavations and inadvertent discoveries, and should be treated as such under the provisions of NAGPRA. The tribe would be considered either the museum or agency and would be responsible for implementing the existing collections portions of NAGPRA; cases would have to be looked at individually to determine who had final responsibility.

Draft Recommendations Regarding Disposition of Culturally Unidentifiable Human Remains in Museum or Federal Agency Collections

Mr. Sullivan summarized the key questions concerning culturally unidentifiable human remains as follows: the question of ancient remains and how ancient is ancient, the ability of non-BIA recognized tribes to participate in repatriation, the linkage of associated funerary objects with human remains, and the degree of direct involvement of the National Park Service and the NAGPRA Committee in the entire process. Mr. Monroe added that many comments questioned the key underlying assumption of this entire approach; that is, of Native Americans deciding disposition of unidentified remains. Mr. Sullivan reiterated the Committee's tasks; to compile an inventory and to recommend specific actions for developing a process for disposition of unidentified remains. One suggested approach was that the Committee develop three separate recommendations; culturally unidentifiable human remains in museums or Federal agencies, non-Federally-recognized tribes, and ancient remains for which there is no specific burial location or information. After discussion, the Committee decided to focus on developing a recommendation based on "affiliation" instead of "affinity" so as to more closely follow the wording of the Statute. Mr. Walker asked how many cultural affiliations have been made with more than one tribe. Mr. McKeown estimated that 75 percent of the notices of inventory completion published so far have had cultural affiliation with more than one tribe. Mr. Sullivan suggested the next step in the process should be to distribute a second set of recommendations for comment, and asked if that could be completed before the next meeting. Mr. McManamon stated that it would be good to recirculate the draft recommendations and that it could be done before the next meeting.

Mr. Monroe suggested developing an approach that would utilize existing terminology to avoid recommendations that would require amendment to the Statute. Mr. Haas expressed his desire to define

"shared group identity" as a first step; and that this definition might include more than individual tribes, could go beyond the tribal notion, and could include something other than a one-to-one direct line between ancient remains and current tribes. Mr. Monroe said he felt it was necessary to deal with the issue of cultural affiliation because it was a basic premise in the Statute in solving the unidentified remains issue. After discussion of past difficulties in defining "shared group identity," the Committee agreed to develop recommendations that encompass two situations; those that are clearly within the scope of the existing Statute and regulations and others which broaden it because of real-life situations.

Mr. Haas suggested incorporating wording such as "religious similarities, adaptive strategies, subsistence and settlement similarities" to define shared group identity. Ms. Naranjo agreed with Mr. Haas's idea to use a listing of terms to define shared group identity, and suggested additional ideas such as "language, food, and ceremonial and agricultural items." Mr. Haas said he felt tracing affinity and identifying shared group identity were two different things, and that it was important to incorporate wording to that effect.

Mr. Walker expressed his concern about the exclusion of non-BIA-recognized tribes concerning culturally unidentified remains. Mr. Monroe suggested making a recommendation to Congress to correct the original oversight concerning this problem. The Committee decided to try to formulate some language over the evening recess for further discussion.

Over the evening recess, a new draft regarding disposition of culturally unidentified human remains was written. Mr. Monroe explained that the intent of the new draft was to recognize the continued belief that it is important that Native Americans make the decisions regarding disposition but also to try to stay within the context of the existing statutory and regulatory language. Mr. Monroe then reviewed the document for the Committee. Mr. Monroe stated that one major point this document has that past drafts did not is the concept of several tribes having shared group identity with human remains rather than only one. Mr. Haas further pointed out that this draft broadens the concept of shared group identity to include things other than direct historical descent.

Mr. McManamon stated that he had some issues that he wanted to address concerning the new draft. In the second sentence, "Tribes will be responsible for establishing shared group identity with specific prehistoric cultures or earlier groups," he suggested adding "agencies, museums and tribes working in concert." After Committee discussion, Mr. Monroe suggested "Tribes or tribes working in cooperation with museums and Federal agencies will be responsible for establishing shared group identity with specific prehistoric cultures or earlier groups," thus allowing the tribes to make the decision with or without input from other sources. Mr. McManamon's second concern was about "establishing cultural affiliation," and the problem of then having to define what and how much evidence is necessary to "establish" the affiliation. His third concern was having the National Park Service in the role of compiling the list of evidence to determine cultural affiliation and acting as a clearinghouse for culturally unaffiliated remains information. Mr. McManamon suggested eliminating the wording about the Park Service compiling the list and the clearinghouse suggestion; and instead having direct contact with the individual museums or agencies. Mr. Haas stated that due to the large inventory of human remains that could be classified as

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culturally unidentifiable, about 100,000, there has to be a clearinghouse; the museums have no way of knowing, without a working list, which groups to contact for these remains, and tribes are not going to know who has what material; and there has to be a mechanism for linking up tribes making claims with museums who have the materials. Mr. McManamon suggested that developing the culturally unidentifiable list, as discussed previously in the meeting, and providing that to the tribes would accomplish the same results without having to create another list.

Mr. LeBeau stated that his recommendation regarding the phrase "such as oral histories and similar patterns of settlement and artistic traditions," would be to take out the term "artistic" and replace it with "spiritual," because for his cultural group the concept of shared identity is based on a spiritual perspective of who they are. Understanding that this may not be true for all groups, he asked that if "spiritual" could not replace "artistic," that "spiritual" be placed in front of "artistic." His next suggestion was to remove the word "direct" in "direct historical, geographical, temporal or cultural links," because establishing a direct link is not a requirement and including the word "direct" in there might complicate the issue. Mr. Haas suggested wording to the effect of "direct historical links or some combination of geographical, temporal and cultural links." Ms. Naranjo agreed with Mr. LeBeau's recommendation for removing the word "artistic," but she was not sure about inserting "spiritual." Mr. Sullivan suggested the word "religious." Ms. Naranjo did not agree with the term "religious," but offered the phrase "cultural lifeways" as a way to encompass each of these. Ms. Craig agreed with Mr. LeBeau's recommendation of the word "spiritual." Ms. Agard, speaking on behalf of Mrs. Loans Arrow, and Ms. Bad Bear also agreed with Mr. LeBeau's suggestion of "spiritual."

After revising the draft, Mr. Monroe explained the following changes: first, a revised definition of shared group identity, "Shared group identity means a relationship between a present-day Indian tribe or tribes and an earlier group based on: (1) direct historical links and/or (2) a combination of geographical, temporal, and cultural links. Geographical, temporal, and/or cultural links may be established through biological, archaeological, linguistic, folkloric, oral traditional, or other relevant information or expert opinion"; second, the issue of "spiritual" and "artistic", "For example, a tribe or Native Hawaiian organization may not be able to establish an unbroken historical connection with a particular prehistoric culture, but may be able to establish shared group identity based on clear geographical and temporal ties to the area and time of the earlier group coupled with additional evidence, such as oral histories and other cultural traditions and lifeways"; third, "Tribes, or tribes working, at their discretion, in cooperation with museums or Federal agencies or other relevant experts, will be responsible for developing identification of shared group identity with specific prehistoric cultures or earlier groups"; fourth, the issue of Park Service notification role, "The National Park Service will compile a list of all remains that have been initially designated as culturally unidentifiable. This list will be submitted to the Review Committee and to tribes." Ms. Naranjo reminded everyone that these recommendations will go out for comment, will be reviewed at the next meeting, and then will go for another revised draft.

Draft Recommendations on Disposition of Culturally Unidentifiable Native American Remains - Category

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Three: Remains Which are Likely to be Native American but which Lack Information about their Original Burial Location

The Committee decided to discuss further recommendations on this subject at a later date.

Repatriation by Non-Federally-Recognized Tribes

Mr. Walker wondered if it was possible to include wording in the regulations that would encourage Federal agencies and museums to work to repatriate to non-BIA-recognized tribes without Committee involvement. Mr. McKeown stated that currently the regulations require Committee involvement until there is wording that states otherwise in the unidentifiable section. The Committee expressed concern about the practicality of leaving the Committee directly in the "loop" of approving repatriation to non-Federally-Recognized tribes. Mr. Haas suggested wording that would acknowledge that an amendment would be necessary to fully enfranchise non-Federally-recognized tribes; however, pending such legislation, that precedent has been set for non-Federally-recognized tribes to claim and repatriate remains under mutual agreement; that the Committee has recognized that as an acceptable way to repatriate these remains. Mr. Monroe was concerned about recommending this action without a clear-cut method for the Committee to create a workable list of unrecognized tribes to submit for a recommended amendment to NAGPRA as a base for museums and agencies to work from. Mr. Haas recommended including language that encouraged, rather than required, working with unrecognized tribes; such as, state-recognized tribes, previously-recognized BIA tribes, or tribes that are applying for BIA status. Mr. Walker stated that museums feel that they are in legal jeopardy when they decide that the proper group to repatriate remains to are not on the BIA list, and they currently feel they need the Committee's approval in order to have legal protection in these cases.

Mr. Haas suggested the following language as recommendations for human remains affiliated with non-Federally-recognized tribes: one, tribes not Federally recognized are encouraged to work with museums and Federal agencies to reach agreement on possible repatriation of human remains and associated funerary objects; two, museums and Federal agencies who believe they possess human remains related to non-Federally-recognized tribes are encouraged to notify these tribes and work with them to reach agreement on possible repatriation of these remains and associated funerary objects; three, in discussions over the possible repatriation of human remains and associated funerary objects to non-Federally-recognized tribes, the involved parties are encouraged to consult with all Federally-recognized tribes who may have an interest in the area from which the remains originated; four, when agreement is reached to repatriate human remains and associated funerary objects to non-Federally-recognized tribes, this agreement should be submitted to the Review Committee for review and approval. On point one, Mr. Walker suggested using "tribes not on the BIA list" instead of "tribes not Federally recognized"; for point two, he suggested using "affiliated with" instead of "related to"; and, for point three, he suggested using "should" instead of "are encouraged to." Mr. Haas stated that he was trying to make recommendations instead of requirements. Mr. Sullivan stated that he was strongly in favor of points two and three, but felt that point one might be giving guidance to people who have no

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standing under the law. Mr. Haas replied that he was simply trying to encourage groups that have no standing to work with Federal agencies and museums. Mr. Sullivan also stated that he was concerned with the word "approval" in number four and wondered if it was necessary to have the Committee approval in this. Mr. Haas stated that his museum would require Committee approval. After discussion, the Committee decided the word "recommendation" would be more appropriate.

Mr. Haas stated that in the final version of the draft, he basically made the changes as discussed previously by the Committee, NPS staff and the audience. Mr. Haas stated he added a fifth point regarding publishing the intent to repatriate these remains in the Federal Register. Mr. Haas also suggested that the recommendation needs to have an introduction with wording to the effect of "The Committee believes that non-Federally-recognized tribes should be enfranchised, but that this may require additional amendment to the law; and, in the interim, this is the recommendation on how museums would encourage museums, Federal agencies, and non-Federally-recognized tribes to proceed." Mr. Sullivan also suggested including a brief summary of the precedents for those agencies, museums and tribes who are not aware of them.

After discussion, the Committee and NPS staff agreed to have the recommendations ready for publication in the Federal Register by July 1, 1996; allowing a 90-day public comment period. Park Service staff would then assemble the comments for discussion at the next Committee meeting.

Draft on Future Applicability

Mr. McKeown summarized the draft document on future applicability as dealing mainly with three situations: a museum or agency receives new collections or discover current collections containing potentially affected material; a non-Federally-recognized Native American group is determined by the BIA or Congress to be an Indian tribe; or a museum receives funding for the first time and has to comply with the Statute. He then pointed out that the Committee needed to discuss appropriate time frames for completion of the summary and inventory process under these circumstances. Mr. Haas expressed the opinion that the Park Service should notify museums of newly recognized Federal tribes. Mr. Walker had a concern about discoveries of new remains that are from a collection that has already been repatriated, and he suggested contacting the group that received the previous repatriation and repatriating those items immediately. Mr. McManamon said currently those items would have to go through the repatriation process. Mr. Walker suggested the following language, "When additional human remains, cultural items or items of cultural patrimony from a previously repatriated collection are discovered in a museum's collection, the museum shall notify the tribe and expeditiously repatriate those remains." Mr. McManamon felt this was appropriate wording, but requested a little leeway in wording the recommendation to explain that these items would have to be materials that would have been completely taken into account with the past repatriation. After discussion, the Committee decided to set the time limits of 90 days for completion of summaries after receipt or discovery and one year for completion of inventories after receipt or discovery.

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Public Comment on Implementation of the Act in Montana

Mr. Francis Aulde, Montana Burial Council, explained that in Montana a law was passed creating the Montana Burial Council which consists of 13 members from different tribes, coroners and universities. Through this council an agreement was made that the closest tribe, geographically, would take responsibility for any remains that are found in the state. Mr. Aulde then presented a video containing two cases of repatriation that were completed: one case where remains were discovered and reinterred later at an Indian cemetery and one case where remains were reinterred where they were found on private land.

Mr. Gerard Baker, Little Bighorn National Monument, said that the National Park Service currently has 15,237 employees, of which, 550 are Native American employees and 250 are Native American seasonal employees.

Mr. Baker then offered a presentation on the unique situation at the Little Bighorn National Monument regarding NAGPRA and its implementation. According to oral history, Indian remains were removed from the battlefield and buried elsewhere; none were identified from the battlefield itself. Before the battle, this land was occupied by a number of tribes; such as, Crow, Arapaho, Mandan-Hidatsa, Blackfeet, and people from the Flathead country. Thus, burials have been found that are not related to the battle, but could be from a number of different groups.

The Little Bighorn National Monument does not currently seek remains or artifacts from the battlefield, but when they are inadvertently found identification is attempted and appropriate repatriation is conducted. Native American remains are repatriated by the NAGPRA Committee for the Little Bighorn, which has expressed the wish that no military personnel be repatriated with Native Americans. Military personnel are repatriated on site in a single grave with attendance by the 7th Cavalry. When remains cannot be identified, both the Committee and the 7th Cavalry will be invited to conduct repatriation ceremonies as desired.

Mr. Baker related that theft has been and continues to be a problem at Little Bighorn Battlefield. Security has been increased to try to alleviate this problem. In the meantime, remains and artifacts continue to be found and returned through private individuals, court cases, and inadvertent discoveries. The Little Bighorn National Monument will try to deal with each case as far as identification and repatriation as quickly as possible.

Ms. Naida Lefthand, Administrative Assistant for the Kootenai Cultural Program, gave a brief background on the Kootenai Cultural Program. Ms. Lefthand stated that if more Native Americans worked to educate non-Native Americans, she believes private citizens would have a better understanding about inadvertent discoveries and would come forward when these situations occur. According to the wishes of the elders, remains from Montana will be reburied as close as possible to where they were found. Thus far, 14 reinterments have occurred at the Indian cemetery, and six reburials occurred close

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to the area of excavation. The Cultural Program is currently working with Federal agencies where remains have been previously excavated to see if they would be willing to accept remains back onto their lands and protect them. The group is proceeding with caution to ensure that all grave goods are returned to be repatriated with the appropriate set of remains, even if they are currently in different museums or agencies. Ms. Lefthand expressed a concern that this caution not be interpreted as lack of interest by museums or Federal agencies. Ms. Naranjo appreciated the caution and deliberation expressed by this group, and said that similar circumstances exist in the area that she is familiar with. Ms. Lefthand said that they had very few elders left, and this was causing a great deal of concern. Ms. Craig expressed the same concern for her area.

Mr. Walker asked Mr. McManamon if there was a policy regarding the reburial of remains on Federal land and whether the Committee could encourage such action to take place. Mr. McManamon replied that there is no general policy, and that it is up to each individual superintendent. Mr. McManamon also stated that the Committee has, in fact, been encouraging this by encouraging tribes and agencies to work together. Mr. Zontek offered an example where successful reburial of remains did occur on Federal lands when an inadvertent discovery occurred in 1992 on the North Loop Canal construction in Nebraska.

Public Comment

Ms. Agard, Standing Rock Sioux Tribe, stated that it was the responsibility of everyone in the room to get to know one another; and that despite different backgrounds, education levels, and styles of thinking, everyone needs to work together toward the common goal of repatriation. She urged the Committee to remember to speak in a way that everyone can understand.

Ms. Bad Bear, Science Museum of Minnesota, asked if museums are supposed to unconditionally return objects for repatriation. She then stated that she was raised traditionally and believes that Native Americans have the ability to identify unidentifiable remains. Mr. Walker confirmed that museums are to unconditionally return objects and that the Committee agrees with her in her recommendation to allow Native Americans to identify these remains.

Ms. Estep, Museum of the Rockies, stated that while it is their policy not to collect human remains, they have a small number that were included in a donated collection. They have met all NAGPRA deadlines, and, thus far, no repatriation has been initiated. Most of the remains are currently culturally unidentified.

Ms. Geisen, Bureau of Reclamation, stated that in doing their inventory, a number of individuals were documented that cannot be located in their collections. When consulted, the Park Service advised that since the remains could not be found, they should not be included in the inventory. Mr. Monroe suggested including a list of some form so as to get the information out to the tribes. Ms. Geisen stated the Bureau did intend to include a listing of the remains with the inventory for cross-referencing purposes.

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Mr. Gray, Rosebud Sioux Tribe, wanted to add that the Indian tribes should be the ones to determine what objects are associated with burials.

Mr. Keller, Bureau of Indian Affairs, expressed concern that the term "shared group identity" might be misused by some groups to unfairly gain access to remains. He suggested that remains be handled on a geographical location basis. Mr. Haas appreciated Mr. Keller's concern but stated that repatriation by geographic location is not always possible since it unfairly excludes some groups.

Mr. Killion, Smithsonian, commented on the status of the Natural History Museum which now has a deadline imposed by the Secretary of the Smithsonian of December 31, 1996, to complete the summary process and June 1, 1998, to complete an inventory of all human remains and funerary objects. To date, the Natural History Museum has repatriated over 2,500 sets of remains; sent out inventories referencing over 8,000 sets of remains; has 42 current requests from different groups; completed 144 ethnographic summaries; consulted 206 tribes directly; and had 180 official visits by tribal people to the repatriation office. Mr. Killion hoped to show that the Museum has tried to move in line with the Committee's recommendations regarding NAGPRA and has had some major accomplishments in the actual act of repatriation. Mr. Haas pointed out that the Committee, while being critical of the Smithsonian and its lack of compliance with NAGPRA, was not being critical of Mr. Killion's office and approved of their efforts so far. Mr. Monroe commended the Secretary for his actions and Mr. Killion's office for the fine job they have been doing.

Mr. LeBeau, Cheyenne River Sioux Tribe, stated that Indians should be the ones to define "shared group identity," because they know the past relationships among the different tribes due to their oral history. Mr. LeBeau complimented Mr. Haas's notion of going beyond direct-line relationships between current-day Indian tribes and ancient remains in defining shared group identity, and suggested adding a clause about good faith efforts in repatriation to encourage museums. Mr. LeBeau then cautioned the Committee to be specific in their wording so the recommendations cannot be misinterpreted. Mr. LeBeau agreed with Mr. Walker's recommendation to immediately request remains found that belong in previously repatriated collections. In response to Ms. Geisen's concern about documented remains that are not currently in agency or museum collections, he explained that he is currently working with the Fruitlands Museum at Harvard in a similar situation. The museum inventoried the remains, and the tribe will submit a repatriation request for them; therefore, when they are found they can be repatriated.

Ms. Lefthand, Confederated Salish and Kootenai Tribes, stated that her tribe has received summaries in which the agencies or museums have made a determination that they have no sacred objects or objects of cultural patrimony and expressed a concern over whether they had the right to make that determination. Mr. Sullivan assured her that the Committee agreed it was not appropriate for museums or universities to decide if objects are sacred objects or objects of cultural patrimony. She expressed concern over who held responsibility for a collection currently held by the Corps and also concern about the amount of time the process was taking. Mr. McManamon stated that since the Corps claims the collection, they are responsible for it. Ms. Lefthand stated that they plan to create an action plan with each museum that they

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deal with to handle each situation that arises.

Mrs. Loans Arrow, Standing Rock Sioux Tribe, expressed a spiritual concern that all remains need to go back to the earth as soon as possible, regardless if they are identified or unidentified. Ms. Loans Arrow said she is present at the meeting despite personal difficulties and loss, and that she believes it is extremely important to rebury the remains so they can start anew and teach children respect for themselves and others.

Mr. McCloskey, Rosebud Sioux Tribe, read a prepared testimony for the Committee emphasizing the importance of repatriating remains and funerary objects and asking for assistance from the Park Service with early notification of meetings and workshops. Mr. McCloskey also asked for information regarding the number of Native Americans working for Park Service system. He supported the idea of a clearinghouse, consisting of the BIA, Park Service and representatives from each tribe.

Mr. Zontek, Bureau of Reclamation, suggested that when requesting status reports from Federal agencies, as Mr. Monroe suggested, the Committee should ask specifically which offices are responsible and what their status is, so as to avoid getting a general, agency-wide reply. He then asked if Federal agencies can begin the repatriation process for unidentifiable remains, as they are interested in doing with certain remains from North Dakota. Mr. McManamon stated that the regulations direct museums and Federal agencies to retain culturally unidentifiable human remains until promulgation of further regulations, or unless legally required to or recommended to by the Secretary. Mr. McManamon then suggested that in specific cases, after reaching a repatriation agreement, a proposal could be brought before the Committee who could then make a specific recommendation to the Secretary, and that this course of action might be appropriate in this case.

Future Activities

Upcoming Meetings: The Committee has received an invitation from the United South and Eastern Tribes to hold the next meeting in Catawba, South Carolina. The Committee agreed upon October 26, 27 and 28, 1996 as a tentative meeting date.

Administrivia: Mr. McManamon reviewed for the Committee those items that the National Park Service will try to accomplish before the next Committee meeting. These include preparing the second draft of Committee recommendations on culturally unidentifiable remains for publication in the Federal Register, as well as assembling public comments for discussion at the next Committee meeting; completing the same process for the recommendations for human remains associated with non-Federally-recognized tribes; making staff level contact with Federal agencies to assess compliance and having a more comprehensive discussion on that subject at the next Committee meeting; and assembling a list of culturally unidentifiable remains based on the information already received from museums and agencies.

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Closing

Ms. Naranjo related that the Committee was happy to fulfill Mr. William Tallbull's request to hold this meeting in Billings, and she asked that he be remembered while Mr. Baker gave the honor song.

Mr. Gerard Baker provided some closing words for the meeting and provided the honor song. The meeting was adjourned at 10:00 a.m. on Tuesday, June 11, 1996.

Approved:

/S/ Tessie Naranjo

Tessie Naranjo, Chair
Native American Graves Protection
and Repatriation Committee

Date